

REMARKS

The Office Action dated May 6, 2008 has been carefully reviewed. Claims 1-8 are currently pending. Reconsideration of the grounds of rejection is respectfully requested in view of the remarks herein.

Summary of the Office Action

Claims 1-8 are rejected under 35 U.S.C. § 112, ¶ 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-8 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,116,682 ("Chakravarti").

Claims 1-8 are rejected under 35 U.S.C. § 103(a) as being obvious over Chakravarti.

Response to Office Action

A. Rejection of Claims 1-8 under 35 U.S.C. § 112, ¶ 2

Applicant has amended the term "static voltage of +/- 400 volts" to a "static voltage between -400 to +400 volts" as supported at paragraph [0008] of the instant specification. Applicant requests entry of this amendment and withdrawal of this rejection.

B. Rejection of Claims 1-8 under 35 U.S.C. § 102(b)

Claims 1-8 stand rejected under 35 U.S.C. § 102(b).

In response to the Examiner's rejection of claims 1-8, the Applicant states that Chakravarti fail to disclose each and every limitation of claims 1-8. "A claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described, in a single prior art reference." *Verdegaul Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987).

Amended independent claim 1 provides for: a filament yarn having wicking less than about 6 mm, a static voltage between -400 to +400 volts, and a water contact angle greater than or equal to about 65 °, but less than about 90 °.

Amended independent claim 5 provides for: a fabric comprising woven filament yarn having wicking less than about 6 mm, a static voltage between -400 to +400 volts, and a water contact angle greater than or equal to about 65 °, but less than about 90 °.

The Office Action has cited Chakravarti as anticipating independent claims 1 and 5. Chakravarti describes a process for producing anti-wicking polyester yarn. Col. 2, lines 7-9. The examples of Chakravarti illustrate yarns with wicking levels of ¼" to ½" and contact angle of approximately 100 °.

Applicant respectfully asserts that Charkravarti does not disclose the limitations of independent claims 1 and 5 as underlined in the above paragraphs. First, the claims recite a wicking value of less than about 6 mm, whereas Charkravarti discloses a wicking value of ¼ inch, or 6.35 mm, to ½ inch, or 12.7 mm. The range in Charkravarti does not touch or overlap the recited wicking value in claims 1 and 5. Second, Charkravarti states the water contact angle is greater than 90 ° whereas pending claims 1 and 5 recited a water contact angle less than 90 °.

In connection with the claim limitation of a static voltage between -400 to +400 volts, the Office Action states the Primary Examiner has reason to believe that the Charkravarti yarn inherently possess this static voltage due to the fiber composition and coating. Applicant respectfully disagrees. Applicant directs the Examiner's attention to Col. 4, lines 22-28 which states:

The drying and heat curing must be sufficient to make the yarn hydrophobic so that the water contact angle is generally greater than about 90 ° and preferably between 95 ° and 120 °.

Applicants submit that processing parameters, and not composition alone, are responsible for the water contact angle.

Furthermore, Table 1 of the present application shows the wicking value, contact angle and static volts for several fluoropolymer coated polyester yarns. The yarn coated with 3M F359 fluorocarbon, has a wicking value of 7.8 mm, contact angle of 61.35 ° and a static voltage of 72. The yarn coated with 3M F359 fluorocarbon (without emulsifiers or antistat) has a wicking value

of 2.6 mm, contact angle of 69.25 ° and a static voltage of 2362. This data indicates that that static voltage between -400 to +400 volts is not necessarily present in the compositions of Chakravarti.

Dependent claims 2-4 depend directly or indirectly from the allowable base claim 1. Therefore, dependent claims 2-4 are allowable at least because of their dependence on an allowable base claim.

Dependent claims 6-8 depend directly or indirectly from the allowable base claim 5. Therefore, dependent claims 6-8 are allowable at least because of their dependence on an allowable base claim.

C. Rejection of Claims 1-8 under 35 U.S.C. § 103(a)

In response to the Examiner's rejection of claims 1-8, the Applicant respectfully asserts that the pending claims are allowable over the cited references because the Examiner has failed to establish a *prima facie* case of obviousness. The MPEP states, in relevant part:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. MPEP § 2143.

For at least the reasons discussed in Part B and below, the Examiner has failed to establish a *prima facie* case of obviousness, with respect to Chakravarti, and claims 1-8 are patentable.

Regarding the ranges of water contact angle, Applicant asserts that the ranges recited in independent claims 1 and 5 would not be obvious to one of skill in the art as Chakravarti teaches to use ranges greater than 90 °. At Col. 4, lines 26-30, Chakravarti states:

The drying and heat curing must be sufficient to make the yarn hydrophobic so that the water contact angle is generally greater than about 90 ° and preferably between 95 ° and 120 °. A water contact angle greater than 90 ° makes a surface non-wettable and hence imparts better anti-wicking properties.

Because Charkravarti does not teach or suggest all the claim limitations and it would not be obvious to try water contact angle ranges less than 90 °, Applicants respectfully submit that claims 1 and 5 are non-obvious over Chakravarti.

Dependent claims 2-4 depend directly or indirectly from the allowable base claim 1. Therefore, dependent claims 2-4 are allowable at least because of their dependence on an allowable base claim.

Dependent claims 6-8 depend directly or indirectly from the allowable base claim 5. Therefore, dependent claims 6-8 are allowable at least because of their dependence on an allowable base claim.

CONCLUSION

In view of the foregoing remarks, it is submitted that pending claims 1-8 are in condition for allowance. Accordingly, reconsideration and timely allowance of claims 1-8 are requested.

Applicant respectfully requests reconsideration and withdrawal of the rejections based on 35 U.S.C. § 112, ¶ 2, 35 U.S.C. § 102(b), and 35 U.S.C. § 103(a) presented in the Office Action mailed May 6, 2008. The Examiner is invited to contact the undersigned at 215-963-4764 to discuss any matter concerning this Application.

The Commissioner is hereby authorized by this paper to charge any fees due in connection with the filing of the response to Deposit Account No. **50-0310**.

Respectfully submitted,

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Date

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